

House Study Bill 263

SENATE/HOUSE FILE _____
BY (PROPOSED INFORMATION
TECHNOLOGY DEPARTMENT
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to electronic communication, providing for
2 restrictions on unsolicited advertisements via e-mail or
3 facsimile, restrictions on unauthorized access to or
4 disruption of computer data and systems, and providing
5 penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1324XD 80
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1 1 Section 1. Section 702.1A, Code 2003, is amended by
1 2 striking the section and inserting in lieu thereof the
1 3 following:
1 4 702.1A COMPUTER TERMINOLOGY.
1 5 For purposes of section 714.1, subsection 8, section
1 6 714E.1, and section 716.6B:
1 7 1. "Advertisement" means an electronic mail message sent
1 8 to a computer, or a fax transmission, for the purpose of
1 9 promoting real property, goods, or services for sale, lease,
1 10 barter, or auction, or the making of a gift offer or extension
1 11 of credit.
1 12 2. "Computer" means an electronic device which performs
1 13 logical, arithmetical, and memory functions by manipulation of
1 14 electronic or magnetic impulses, and includes all input,
1 15 output, processing, storage, computer software, and
1 16 communication facilities which are connected or related to the
1 17 computer in a computer system or computer network.
1 18 3. "Computer access" means to instruct, communicate with,
1 19 store data in, or retrieve data from a computer, computer
1 20 system, or computer network.
1 21 4. "Computer contaminant" means any set of computer
1 22 instructions that are designed to modify, damage, destroy,
1 23 record, or transmit information within a computer, computer
1 24 system, or computer network without the permission of the
1 25 owner of the information. The computer instructions include,
1 26 but are not limited to, a group of computer instructions
1 27 commonly called viruses or worms, that are self-replicating or
1 28 self-propagating and are designed to contaminate other
1 29 computer programs or computer data, consume computer
1 30 resources, modify, destroy, record, or transmit data, or in
1 31 some other fashion usurp the normal operation of the computer,
1 32 computer system, or computer network.
1 33 5. "Computer data" means a representation of information,
1 34 knowledge, facts, concepts, or instructions that has been
1 35 prepared or is being prepared in a formalized manner and has
2 1 been processed, or is intended to be processed in a computer.
2 2 Computer data may be in any form including, but not limited
2 3 to, printouts, magnetic storage media, punched cards, and as
2 4 stored in the memory of a computer.
2 5 6. "Computer network" means a set of related, remotely
2 6 connected devices and communication facilities including two
2 7 or more computers with capability to transmit data among them
2 8 through communication facilities.
2 9 7. "Computer program" means an ordered set of instructions
2 10 or statements that, when executed by a computer, causes the
2 11 computer to process data.
2 12 8. "Computer services" means the use of a computer,
2 13 computer system, or computer network and includes, but is not
2 14 limited to, computer time, data processing, and storage
2 15 functions.
2 16 9. "Computer software" means a set of computer programs,
2 17 procedures, or associated documentation used in the operation
2 18 of a computer.
2 19 10. "Computer system" means related, connected or

2 20 unconnected, computers or peripheral equipment.
2 21 11. "Data" means a representation of information,
2 22 knowledge, facts, concepts, computer software, computer
2 23 programs, or instructions. Data may be in any form, in
2 24 storage media, or as stored in the memory of the computer or
2 25 in transit or presented on a display device.
2 26 12. "Electronic mail" means an electronic message, file,
2 27 data, or other electronic information that is transmitted
2 28 using an internet or intranet computer network to one or more
2 29 persons.
2 30 13. "Fax transmission" means the transmission of a message
2 31 utilizing a facsimile machine to one or more persons.
2 32 14. "Injury" means any alteration, deletion, damage, or
2 33 destruction of a computer system, computer network, computer
2 34 program, or data caused by the access.
2 35 15. "Interactive computer service" means an information
3 1 service, system, or access software provider that provides or
3 2 enables computer access by multiple users to a computer
3 3 server, including specifically a service or system that
3 4 provides access to the internet, and such systems operated or
3 5 services offered by a library or an educational institution.
3 6 16. "Internet domain name" means a globally unique,
3 7 hierarchical reference to an internet host or service,
3 8 assigned through a centralized internet naming authority,
3 9 comprising a series of character strings separated by periods,
3 10 with the right-most string specifying the top of the
3 11 hierarchy.
3 12 17. "Loss of property" means the greater of either the
3 13 retail value of the property involved, or its reasonable
3 14 replacement or repair cost whichever is less.
3 15 18. "Loss of services" means the reasonable value of the
3 16 damage created by the unavailability or lack of utility of the
3 17 property or services involved until repair or replacement can
3 18 be effected.
3 19 19. "Recipient" means a person who receives electronic
3 20 mail or a fax transmission.
3 21 20. "Supporting documentation" includes, but is not
3 22 limited to, all information, in any form, pertaining to the
3 23 design, construction, classification, implementation, use, or
3 24 modification of a computer, computer system, computer network,
3 25 computer program, or computer software, which information is
3 26 not generally available to the public and is necessary for the
3 27 operation of a computer, computer system, computer network,
3 28 computer program, or computer software.
3 29 21. "Victim expenditure" means any expenditure reasonably
3 30 and necessarily incurred by an owner or lessee to verify that
3 31 the owner's or lessee's computer system, computer network,
3 32 computer program, or data was or was not altered, deleted,
3 33 damaged, or destroyed by the computer access.
3 34 Sec. 2. Section 714.1, subsection 8, Code 2003, is amended
3 35 to read as follows:
4 1 8. Knowingly and without authorization ~~accesses or causes~~
~~4 2 to be accessed a computer, computer system, or computer~~
~~4 3 network, or any part thereof, for the purpose of obtaining~~
~~4 4 computer services, information, or property or knowingly and~~
~~4 5 without authorization and with the intent to permanently~~
4 6 deprive the owner of possession, takes, transfers, conceals,
4 7 or retains possession of a computer, computer system, or
4 8 computer network or any computer software or computer program,
4 9 or computer data contained in a computer, computer system, or
4 10 computer network.
4 11 Sec. 3. Section 714E.1, subsection 1, Code 2003, is
4 12 amended by striking the subsection and inserting in lieu
4 13 thereof the following:
4 14 1. PROHIBITED ACTS. It is unlawful for a person to use an
4 15 interactive computer service or initiate the sending of bulk
4 16 electronic mail or fax transmissions that the sender knows, or
4 17 has reason to know, violates any of the following:
4 18 a. Uses the name of a third party in the return address
4 19 field without permission of the third party.
4 20 b. Misrepresents any information in identifying the point
4 21 of origin of the transmission path of the electronic mail or
4 22 fax transmission.
4 23 c. Does not contain information identifying the point of
4 24 origin or the transmission path of the electronic mail or fax
4 25 transmission.
4 26 d. With respect to an unsolicited advertisement, does not
4 27 comply with the provisions of subsection 2.
4 28 Sec. 4. Section 714E.1, subsection 2, Code 2003, is
4 29 amended by striking the subsection and inserting in lieu
4 30 thereof the following:

4 31 2. UNSOLICITED ADVERTISEMENTS == NOTIFICATION BY
4 32 RECIPIENT. Documents consisting of unsolicited advertisements
4 33 shall not be sent by electronic mail or fax transmission
4 34 unless the following provisions are met:
4 35 a. A person sending an electronic mail message shall
5 1 establish a valid sender-operated return e-mail address or
5 2 provide an area of the message that can be easily activated so
5 3 that the recipient of the unsolicited documents can notify the
5 4 sender by e-mail not to e-mail any further unsolicited
5 5 documents.
5 6 b. A person sending a fax transmission shall establish a
5 7 toll-free telephone number that the recipient of the
5 8 unsolicited documents may call to notify the sender not to
5 9 send by fax transmission any further unsolicited documents.
5 10 c. All unsolicited documents subject to this subsection
5 11 shall include a statement informing the recipient of the toll-
5 12 free telephone number that the recipient may call, or a valid
5 13 return address to which the recipient may write or e-mail,
5 14 notifying the sender not to e-mail or send by fax transmission
5 15 to the recipient any further unsolicited documents to the e-
5 16 mail address or fax transmission telephone number specified by
5 17 the recipient. In the case of e-mail, the statement shall be
5 18 the first text in the body of the message and shall be of the
5 19 same size as the majority of the text of the message. In the
5 20 case of material sent by fax transmission, the statement shall
5 21 be in at least nine point type. An employer who is the
5 22 registered owner or valid contact person authorized to stop
5 23 the sending of e-mail to all of an e-mail domain, in the case
5 24 of more than one e-mail address, may provide notification to a
5 25 sender pursuant to this paragraph on behalf of all of the
5 26 employees who may use employer=provided and employer=
5 27 controlled e-mail addresses.
5 28 d. In the case of e-mail, the subject line of each message
5 29 shall include the designation "ADV:" for advertisement as the
5 30 first four characters. If the message contains information
5 31 that consists of unsolicited advertisements targeted to an
5 32 individual eighteen years of age or older, the subject line of
5 33 each message shall include the designation "ADV:ADLT" for
5 34 adult advertisement in the first eight characters.
5 35 e. Upon notification by a recipient of the recipient's
6 1 request not to receive any further unsolicited e-mailed
6 2 documents or documents sent by fax transmission, a person
6 3 conducting business in this state shall not e-mail or send by
6 4 fax transmission, or cause to be e-mailed or sent by fax
6 5 transmission, any unsolicited documents to that recipient. A
6 6 person or entity which continues to send unsolicited
6 7 advertisements after a five-business-day period following
6 8 notification shall be subject to the penalty provisions of
6 9 subsection 3.
6 10 f. This subsection shall not apply to documents which are
6 11 addressed to a recipient with whom the sender has an existing
6 12 business or personal relationship, or to documents which are
6 13 sent at the request of, or with the express consent of, the
6 14 recipient.
6 15 Sec. 5. Section 714E.1, subsection 3, Code 2003, is
6 16 amended to read as follows:
6 17 3. CIVIL DAMAGES.
6 18 a. (1) Except as provided in paragraph "b", a person who
6 19 is injured in person or property as a result of a violation of
6 20 this section may bring an action to recover damages. Such
6 21 damages shall include, but are not limited to, actual damages
6 22 including lost profits.
6 23 (2) Notwithstanding subparagraph (1), a person who
6 24 transmits or causes to be transmitted electronic mail or sends
6 25 or causes to be sent fax transmissions in violation of
6 26 subsection 2 this section is liable to the recipient of the
6 27 electronic mail or fax transmission for monetary damages in an
6 28 amount equal to any actual damages, including lost profits,
6 29 caused by such transmittal. The recipient, in lieu of actual
6 30 damages, may elect to recover from the person transmitting or
6 31 causing to be transmitted such electronic mail or sending or
6 32 causing to be sent such fax transmission the greater of ten
6 33 dollars for each bulk electronic mail message transmitted or
6 34 bulk fax transmission sent to the recipient in violation of
6 35 this section, or five hundred dollars. In addition to the
7 1 monetary damages, the recipient is also entitled to costs and
7 2 reasonable attorney fees.
7 3 b. (1) Notwithstanding paragraph "a", if the person
7 4 injured is an interactive computer service and such injury
7 5 arises from a person who transmits bulk electronic mail
7 6 without authority, such service may recover actual damages,

7 attorney fees, and costs. Such service, in lieu of recovering
7 actual damages, may also elect to recover the greater of ten
7 dollars for each unsolicited bulk electronic mail message
7 transmitted in violation of this section, or twenty-five
7 thousand dollars.

7 (2) For purposes of this paragraph, a person is "without
7 authority" when the person has no right or permission of the
7 owner to use a computer, or the person uses the computer in a
7 manner which exceeds the person's right or permission; or the
7 person uses a computer, a computer network, or the computer
7 services or an interactive computer service to transmit
7 unsolicited bulk electronic mail in contravention of the
7 authority granted by or in violation of the policies set by
7 the interactive computer service to the extent the person has
7 received actual notice of such policies. Transmission of
7 electronic mail from an organization or similar entity to the
7 members of such organization or similar entity shall not be
7 deemed to be unsolicited bulk electronic mail.

7 c. In an action brought under this chapter, a court shall
7 preserve the secrecy of an alleged trade secret by reasonable
7 means, including but not limited to granting protective orders
7 in connection with discovery proceedings, holding in-camera
7 hearings, sealing the records of the action, and ordering a
7 person involved in the litigation not to disclose an alleged
7 trade secret without prior court approval.

7 d. This section shall not be construed to limit any
7 person's right to pursue any additional civil remedy otherwise
7 allowed by law.

7 Sec. 6. Section 714E.1, subsection 4, Code 2003, is
8 amended to read as follows:

8 4. INJUNCTION. In addition to any other remedy under this
8 section, a recipient may also petition the district court for
8 an injunction to prohibit the person from transmitting to the
8 recipient any other electronic mail or sending any other fax
8 transmission that includes an advertisement.

8 Sec. 7. Section 714E.1, subsection 6, Code 2003, is
8 amended to read as follows:

8 6. EXCEPTIONS.

8 a. This section does not apply to any of the following:

8 (1) A person who provides users with access to a computer
8 network, and as part of that service, transmits electronic
8 mail on behalf of those users, unless such person knowingly
8 transmits electronic mail that includes an advertisement which
8 the person prepared or caused to be prepared.

8 (2) A person who provides users with access to a computer
8 network, and as part of that service, transmits electronic
8 mail on behalf of those users, unless such person transmits
8 electronic mail on behalf of those users which the person
8 knows, or should have known was transmitted in violation of
8 ~~subsection 2 this section.~~

8 (3) Electronic mail which is accessed by the recipient
8 from an electronic bulletin board.

8 (4) A person who provides users with access at no charge
8 to electronic mail, including receiving and transmitting such
8 electronic mail, and as a condition of providing such access
8 requires such users to receive unsolicited advertisements.

8 b. An interactive computer service is not liable under
8 this section for an action voluntarily taken in good faith to
8 block or prevent the receipt or transmission through its
8 service of any commercial electronic mail which is reasonably
8 believed to be in violation of ~~subsection 2 this section.~~

8 Sec. 8. Section 714E.2, Code 2003, is amended to read as
8 follows:

8 714E.2 CIVIL ENFORCEMENT.

9 1. A violation of section 714E.1, subsection 1 or 2, is a
9 violation of section 714.16, subsection 2, paragraph "a". All
9 the powers conferred upon the attorney general to accomplish
9 the objectives and carry out the duties prescribed pursuant to
9 section 714.16 are also conferred upon the attorney general to
9 enforce section 714E.1, including, but not limited to the
9 power to issue subpoenas, adopt rules which shall have the
9 force of law, and seek injunctive relief and civil penalties.

9 2. In seeking reimbursement pursuant to section 714.16,
9 subsection 7, from a person who has committed a violation of
9 section 714E.1, subsection 1 or 2, the attorney general may
9 seek an order from the court that the person pay to the
9 attorney general on behalf of consumers the amounts for which
9 the person would be liable under section 714E.1, subsection 3,
9 for each consumer who has a cause of action pursuant to
9 section 714E.1, subsection 3. Section 714.16, as it relates
9 to consumer reimbursement, shall apply to consumer

9 18 reimbursement pursuant to this section.
9 19 Sec. 9. Section 716.6B, Code 2003, is amended by striking
9 20 the section and inserting in lieu thereof the following:
9 21 716.6B UNAUTHORIZED COMPUTER ACCESS == PENALTIES == CIVIL
9 22 CAUSE OF ACTION.
9 23 1. LEGISLATIVE INTENT. It is the intent of the general
9 24 assembly to expand the degree of protection afforded to
9 25 individuals, businesses, and governmental agencies from
9 26 tampering, interference, damage, and unauthorized access to
9 27 lawfully created computer data and computer systems. The
9 28 proliferation of computer technology has resulted in a
9 29 concomitant proliferation of computer crime and other forms of
9 30 unauthorized computer access to computers, computer systems,
9 31 and computer data. Protection of the integrity of all types
9 32 and forms of lawfully created computers, computer systems, and
9 33 data is vital to the protection of the privacy of individuals,
9 34 as well as to the well-being of financial institutions,
9 35 business concerns, governmental agencies, and others within
10 1 this state that lawfully utilize those computers, computer
10 2 systems, and data.
10 3 2. PROHIBITED ACTS. It is unlawful for a person to commit
10 4 any of the following acts:
10 5 a. Knowingly accessing and without permission altering,
10 6 damaging, deleting, destroying, or otherwise using any data,
10 7 computer, computer system, or computer network in order to
10 8 either devise or execute any scheme or artifice to defraud,
10 9 deceive, or extort, or wrongfully control or obtain money,
10 10 property, or data.
10 11 b. Knowingly accessing and without permission taking,
10 12 copying, or making use of any data from a computer, computer
10 13 system, or computer network, or taking or copying any
10 14 supporting documentation, whether existing or residing
10 15 internal or external to a computer, computer system, or
10 16 computer network.
10 17 c. Knowingly and without permission using or causing to be
10 18 used computer services.
10 19 d. Knowingly accessing and without permission adding,
10 20 altering, damaging, deleting, or destroying any data, computer
10 21 software, or computer programs which reside or exist internal
10 22 or external to a computer, computer system, or computer
10 23 network.
10 24 e. Knowingly and without permission disrupting or causing
10 25 the disruption of computer services or denying or causing the
10 26 denial of computer services to an authorized user of a
10 27 computer, computer system, or computer network.
10 28 f. Knowingly and without permission providing or assisting
10 29 in providing a means of accessing a computer, computer system,
10 30 or computer network in violation of this section.
10 31 g. Knowingly and without permission accessing or causing
10 32 to be accessed any computer, computer system, or computer
10 33 network.
10 34 h. Knowingly introducing any computer contaminant into any
10 35 computer, computer system, or computer network.
11 1 i. Knowingly and without permission using the internet
11 2 domain name of another individual, corporation, or entity in
11 3 connection with the sending of one or more electronic mail
11 4 messages, and thereby damaging or causing damage to a
11 5 computer, computer system, or computer network.
11 6 3. PENALTIES.
11 7 a. A violation of subsection 2, paragraph "a", "b", "d",
11 8 or "e", is punishable as an aggravated misdemeanor except that
11 9 the maximum fine to be imposed shall not exceed ten thousand
11 10 dollars.
11 11 b. A violation of subsection 2, paragraph "c", is
11 12 punishable as follows:
11 13 (1) For a first violation that does not result in injury,
11 14 and where the value of the computer services used does not
11 15 exceed four hundred dollars, as a serious misdemeanor except
11 16 that the maximum fine to be imposed shall not exceed five
11 17 thousand dollars.
11 18 (2) For a violation that results in a victim expenditure
11 19 in an amount greater than five thousand dollars or in an
11 20 injury, or if the value of the computer services used exceeds
11 21 four hundred dollars, or for any second or subsequent
11 22 violation, as an aggravated misdemeanor except that the
11 23 maximum fine to be imposed shall not exceed ten thousand
11 24 dollars.
11 25 c. A violation of subsection 2, paragraph "f", "g", or
11 26 "h", is punishable as follows:
11 27 (1) For a first violation that does not result in injury,
11 28 as a simple misdemeanor.

11 29 (2) For a violation that results in a victim expenditure
11 30 in an amount not greater than five thousand dollars, or for a
11 31 second or subsequent violation, as a serious misdemeanor
11 32 except that the maximum fine to be imposed shall not exceed
11 33 five thousand dollars.

11 34 (3) For a violation that results in a victim expenditure
11 35 in an amount greater than five thousand dollars, as an
12 1 aggravated misdemeanor except that the maximum fine to be
12 2 imposed shall not exceed ten thousand dollars.

12 3 d. A violation of subsection 2, paragraph "i", is
12 4 punishable as follows:

12 5 (1) For a first violation that does not result in injury,
12 6 by a fine not exceeding two hundred fifty dollars.

12 7 (2) For a violation that results in injury, or for a
12 8 second or subsequent violation, as a serious misdemeanor
12 9 except that the maximum fine to be imposed shall not exceed
12 10 five thousand dollars.

12 11 e. In addition to any other civil remedy available, the
12 12 owner or lessee of the computer, computer system, computer
12 13 network, computer program, or data may bring a civil action
12 14 against any person convicted under this section for
12 15 compensatory damages, including any expenditure reasonably and
12 16 necessarily incurred by the owner or lessee to verify that a
12 17 computer system, computer network, computer program, or data
12 18 was or was not altered, damaged, or deleted by the computer
12 19 access. For the purposes of actions authorized by this
12 20 paragraph, the conduct of an unemancipated minor shall be
12 21 imputed to the parent or legal guardian having control or
12 22 custody of the minor.

12 23 f. In any action brought pursuant to paragraph "e", the
12 24 court may award reasonable attorney fees to a prevailing
12 25 party.

12 26 g. A community college, state university, or academic
12 27 institution accredited in this state shall include computer=
12 28 related crimes as a specific violation of college or
12 29 university student conduct policies and regulations that may
12 30 subject a student to disciplinary sanctions up to and
12 31 including dismissal from the academic institution. This
12 32 paragraph shall not apply to the state university of Iowa
12 33 unless the state board of regents adopts a resolution to that
12 34 effect.

12 35 h. This subsection shall not be construed to preclude the
13 1 applicability of any other provision of the criminal law of
13 2 this state which applies or may apply to any transaction or to
13 3 criminalize or prohibit any employee labor relations
13 4 activities that are within the scope and protection of state
13 5 or federal labor laws.

13 6 i. A computer, computer system, computer network, or any
13 7 software or data, owned by the defendant, which is used during
13 8 the commission of any act made unlawful by subsection 2, or
13 9 any computer, owned by the defendant, which is used as a
13 10 repository for the storage of software or data unlawfully
13 11 obtained in violation of subsection 2 shall be subject to
13 12 seizure and forfeiture.

13 13 j. This section does not apply to a person who accesses
13 14 the computer system, computer network, computer program, or
13 15 data of the person's employer when acting within the scope of
13 16 lawful employment.

13 17 k. Subsection 2, paragraph "c", does not apply to a person
13 18 who accesses or uses the computer system, computer network,
13 19 computer program, or data of the person's employer when acting
13 20 outside the scope of the person's lawful employment, as long
13 21 as the person's activities do not cause an injury to the
13 22 employer or to another, or as long as the value of supplies
13 23 and computer services which are used by the person do not
13 24 exceed an accumulated total of one hundred dollars. No
13 25 activity exempted from prosecution under this paragraph which
13 26 incidentally violates subsection 2, paragraph "b", "d", or
13 27 "g", shall be prosecuted under those paragraphs.

13 28 l. For purposes of bringing a civil or a criminal action
13 29 under this section, a person who causes, by any means, the
13 30 access of a computer, computer system, or computer network in
13 31 one jurisdiction from another jurisdiction is deemed to have
13 32 personally accessed the computer, computer system, or computer
13 33 network in each jurisdiction.

13 34 m. In determining the terms and conditions applicable to a
13 35 person convicted of a violation of this section, the court
14 1 shall consider prohibitions on computer access to and use of
14 2 computers, and alternate sentencing, including community
14 3 service, if the defendant shows remorse and recognition of the
14 4 wrongdoing and an inclination not to repeat the offense.

EXPLANATION

14 5
14 6 This bill provides for restrictions concerning unsolicited
14 7 advertisements via e-mail or facsimile and concerning
14 8 unauthorized access to or disruption of computer data and
14 9 systems.
14 10 The bill expands the definitions contained in Code section
14 11 702.1A relating to computer terminology, and makes the
14 12 definitions applicable to the various Code sections contained
14 13 within the bill.
14 14 The bill provides that it is unlawful for a person to use
14 15 an interactive computer service or initiate the sending of
14 16 bulk electronic mail or bulk fax transmissions that the sender
14 17 knows, or has reason to know, uses the name of a third party
14 18 in the return address field without permission, or
14 19 misrepresents or fails to supply information regarding the
14 20 point of origin of the transmission path of the electronic
14 21 mail or fax transmission.
14 22 The bill provides that with respect to an unsolicited
14 23 advertisement, a person or entity sending an electronic mail
14 24 message shall establish a valid sender-operated return e-mail
14 25 address or provide an area of the message to activate so that
14 26 the recipient of the unsolicited documents can notify the
14 27 sender by e-mail not to e-mail any further unsolicited
14 28 documents. Likewise, the bill provides that a person sending
14 29 a fax transmission shall establish a toll-free telephone
14 30 number that the recipient of the unsolicited documents may
14 31 call to notify the sender not to fax any further unsolicited
14 32 documents. The bill provides that all such unsolicited
14 33 documents shall include a statement informing the recipient of
14 34 the toll-free telephone number or the return address,
14 35 notifying the sender not to e-mail or fax the recipient any
15 1 further unsolicited documents. The bill provides that an
15 2 employer who is the registered owner or valid contact person
15 3 authorized to stop the sending of e-mail to all of a domain,
15 4 in the case of more than one e-mail address, may provide
15 5 notification to a sender on behalf of all employees. The bill
15 6 provides, in the case of e-mail, for the designation "ADV:" on
15 7 the subject line of the message, or if the message contains
15 8 information that consists of unsolicited advertisements
15 9 targeted to an individual 18 years of age or older, the
15 10 designation "ADV:ADLT". The bill provides that these
15 11 requirements are not applicable to documents which are
15 12 addressed to a recipient with whom the sender has an existing
15 13 business or personal relationship, or to documents which are
15 14 sent at the request of, or with the express consent of, the
15 15 recipient. The bill specifies penalties which are applicable
15 16 if unsolicited advertisements continue to be sent after the
15 17 expiration of a five-business-day period following
15 18 notification.
15 19 The bill contains provisions relating to unauthorized
15 20 computer access. The bill provides that it is the intent of
15 21 the general assembly to expand the degree of protection
15 22 afforded to individuals, businesses, and governmental agencies
15 23 from tampering, interference, damage, and unauthorized access
15 24 to lawfully created computer data and computer systems. The
15 25 bill provides that it shall be unlawful for a person to
15 26 knowingly access and without permission alter, damage, delete,
15 27 destroy, or otherwise use any data, computer, computer system,
15 28 or computer network to defraud, deceive, or extort, or
15 29 wrongfully control or obtain money, property, or data. The
15 30 bill provides that it shall also be unlawful to knowingly
15 31 access and without permission take, copy, or make use of any
15 32 data from a computer, computer system, or computer network, or
15 33 take or copy any supporting documentation, whether existing or
15 34 residing internal or external to a computer, computer system,
15 35 or computer network. The bill provides that it shall
16 1 additionally be unlawful to knowingly and without permission
16 2 use or cause to be used computer services, add, alter, damage,
16 3 delete, or destroy any data, computer software, or computer
16 4 programs which reside or exist internal or external to a
16 5 computer, computer system, or computer network, or disrupt or
16 6 cause the disruption of computer services or denying or
16 7 causing to be denied computer services to an authorized user
16 8 of a computer, computer system, or computer network. The bill
16 9 further provides that it shall be unlawful to knowingly and
16 10 without permission provide or assist in providing a means of
16 11 accessing a computer, computer system, or computer network, to
16 12 access or cause to be accessed any computer, computer system,
16 13 or computer network, to knowingly introduce any computer
16 14 contaminant into any computer, computer system, or computer
16 15 network, or to knowingly and without permission use the

16 16 internet domain name of another individual, corporation, or
16 17 entity in connection with the sending of one or more
16 18 electronic mail messages, and thereby damaging or causing
16 19 damage to a computer, computer system, or computer network.
16 20 The bill specifies penalty provisions for these violations,
16 21 and provides for exceptions if a person who accesses the
16 22 computer system, computer network, computer program, or data
16 23 of the person's employer is acting within the scope of the
16 24 person's lawful employment, or outside of lawful employment
16 25 under certain circumstances.
16 26 LSB 1324XD 80
16 27 rn/sh/8.1